

at Delhi. He has admitted that at present he is working with Messrs Hindustan Wire, Ballabgarh at Rs 275 per mensem since May, 1973 while he was getting only Rs 235 per mensem from the respondent concern. He has admitted that during the period of this illness he had been visiting Ballabgarh but he did not attend the E.S.I. Hospital. He has not been able to tell the date when he got himself examined by the Doctor at Delhi.

Shri Prem Raj, President of the Union, W.W. 2 has stated that Shri R.C. Rahi was present in the meeting held on 18th November, 1972 and after he had recovered from his illness he had been reporting himself for duty in the factory. In cross-examination he has admitted that Shri Rahi had absented himself from the factory during the period of lay-off but on account of his illness. He has further stated that the register Ex. W-5 containing the proceedings Ex. W-4 was started only after Shri Rahi had returned from Delhi after his treatment and recovery from illness and that this register was started because the management had refused to mark him and Balbir present during the period of lay-off.

The case has been argued well on both sides and I have given a very careful consideration to the material on record. It is common ground between the parties that during the period in question the workers had been laid off. However, it was necessary for Shri R.C. Rahi to report for duty during this period to justify his claim for the lay off compensation. He admittedly remained absent from 16th October, 1972 although according to the management he was not present in the factory on 14th October, 1972 and onwards. His plea is that he had been taken ill on 16th October, 1972 and recovered from illness on 18th November, 1972. I have been referred to fitness certificate W-2 alleged to have been issued to him by a private doctor at Delhi. The Doctor has not been examined as a witness in the case. The nature of the illness is not mentioned in the said certificate Ex. W-2. Shri Rahi workman concerned has admitted in so many words that during this period he had been visiting Ballabgarh. He has further admitted that he was covered by the B.S.I. Scheme and before the present illness he had always been getting treatment from the E.S.I. Hospital. It has not been shown as to why he did not get treatment from E.S.I. Hospital during the period in question if he had really been taken ill. In the circumstances, no weight can be attached to the medical certificate, W-2 produced by him which does not even mention the nature of his illness and the plea of the management that he had absented himself from duty from 14th October, 1972 onwards has to be believed. The management waited till 4th November, 1972 and since he did not come to the factory to get himself marked present during the period of lay off the management had no alternative but to strike his name off the rolls of which intimation was given to him,—vide letter Ex. M.W.1/1, under registraed cover,—vide postal receipt Ex. MW1/2.

The workman having thus absented himself from duty of his own accord without any proper authorisation, the management was well within its right to strike his name off the rolls and that being so there was no question of contravention of the provisions of section 33 of the Industrial Disputes Act, 1947. The management did not in fact terminate his services which automatically stood terminated because of his absence from duty from 14th October, 1972 till 4th November, 1972, without any permission or proper authorisation.

So, taking into consideration all the facts and the circumstances of the case discussed above, I am quite clear in my mind that the management had not contravened the provisions of section 33 of the Industrial Disputes Act by taking the impugned action of striking off the name of the present workmen from the rolls due to his unauthorised absence from duty, as discussed above. The provisions of section 33-A are not attracted to the facts of the instant case to validate the complaint.

Issue Nos. 1, 2 and 3 are accordingly decided against the workman and in favour of the management and his complaint shall in the result, stand dismissed as being not maintainable. There shall be no order as to costs.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 10th June, 1974.

No. 483, dated the 11th June, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 10th June 1974.